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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,605	12/02/2005	John Keith Marlow	5770	1515
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EXAMINER				
HSIAO, JAMES K				
ART UNIT		PAPER NUMBER		
3683				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,605

Applicant(s)

MARLOW, JOHN KEITH

Examiner

JAMES K. HSIAO

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/02/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 44-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not known how the vehicle operates. Does the vehicle stop when the grip sensors are let go? Does it stop after a predetermined amount of time after the grips are let go? Does it stop after a predetermined distance has been traveled? Does the braking apparatus activate the braking device upon a predetermined movement? What is a predetermined movement? If it stops when the grips are let go, then how can a predetermined movement or velocity be a requirement for brake application? If the vehicle is stopped and the grips are let go, the vehicle does not have a predetermined movement or velocity, does the vehicle maintain brake application? It is not known if the brake application is a function of time, movement, sensing of the grips, or any combination that thereof.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 44-46 and 51-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Hideki (JP-09058462).

Regarding claims 44 and 53, Hideki discloses a plurality of supporting wheels (fig 1); a handle capable of propelling said vehicle solely by hand; touch or grip sensing means for sensing touch or grip of said handle by a user (3); vehicle movement sensing means (6) for sensing movement of said vehicle; a braking apparatus for braking movement of said vehicle, said braking apparatus comprising a selectively activatable braking device for braking movement of at least one said supporting wheel when activated to prevent or stop movement of said vehicle; and control means connected to said touch or grip sensing means, said movement sensing means and said braking apparatus and operable to activate said braking device upon a predetermined movement or velocity of said vehicle as sensed by said vehicle movement sensing means subsequent to release of grip of or touching of said handle by a user as sensed by said touch or grip sensing means (abstract).

Regarding claim 45, Hideki discloses wherein the touch or grip means comprises one or more touch sensitive switches (2).

Regarding claim 46, Hideki discloses wherein touch sensitive switch comprise a touch pad on or in the handle (abstract paragraph 3).

Regarding claim 54, Hideki discloses a wheel rotation sensing means (11) to detect the rate at which the vehicle is moving.

Regarding claim 51, Hideki discloses wherein the controller (6) varies the power supplied to the braking apparatus to vary the application of the braking (abstract)

Regarding claim 55, Hideki discloses a plurality of supporting wheels (fig 1); a handle capable of propelling said vehicle solely by hand; touch or grip sensing means for sensing touch or grip of said handle by a user (3); an electrically activated brake (fig 2) controlled by controller (6); A rotation sensor (11); a programmable controller (6) connected to the braking apparatus and the rotation sensor (fig 1).

Regarding claim 56, Hideki discloses wherein the controller (6) maintains a non-braking state when the handle is touched, thus bringing a force to the handle (abstract).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hideki (JP-09058462) in view of deGoma (US-6296261).

Regarding claim 47, Hideki lacks an actuating brake assembly. deGoma teaches wherein said vehicle includes wherein said braking means comprises a braking member which is movable and activated into engagement in order to prevent or stop rotation of the wheels (fig 3).

Regarding claim 48, Hideki discloses a controller 6 that directs the operation of the braking of the vehicle wherein the vehicle is in one of two states braked or not braked.

Regarding claim 49, Hideki discloses wherein the vehicle is in the brake state when there is no force detected on the handle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the braking control unit of Hideki with the Actuating assembly of deGoma because putting a positive locking brake on a wheel ensures the safety of the device.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hideki (JP-09058462 in view of Yoshiko (JP 09-285798).

Regarding claim 50, Hideki lacks a pair of sensors on the handle, Yoshiko teaches wherein said touch or grip sensing means comprises a pair of grip or touch sensitive pads or switches which are spaced apart on the handle of the vehicle (6a, 6b) and wherein both said pads or switches are required to be activated by touch or grip by both hands of a user to prevent braking of said vehicle by said braking means (6a, 6b). In order to properly operate the cart both hands would need to be on the handle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the braking control unit of Hideki with the grips of Yoshiko in order to properly and safely operate the vehicle.

7. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hideki (JP-09058462 in view of Harris (US-6502669).

Regarding claim 52, Hideki discloses as set forth above but lacks a keypad into which a code is required to deactivate the brakes. Harris discloses a keypad for controlling the brakes on a cart (col. 14, lines 52-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the braking assembly of Hideki with the keypad of Harris because it would provide security for the cart.

Response to Arguments

8. Applicant's arguments filed 11/16/2007 have been fully considered but they are not persuasive. Regarding the argument that the vehicle of Hideki does not have a handle with touch or grip sensors for operation, examiner respectfully disagrees. Force sensors 3 are in fact part of handle 2. It appears that the arguments are more specific than what is required by the limitations set by the claims. Applicant argues that the reference Hideki does not brake the vehicle, it simply prevents the drive of the vehicle. However, Hideki does brake the vehicle, when the drive source is slowed, the vehicle is braking and therefore applying a braking force to the wheels of the vehicle. On page two of the arguments it is noted that the applicant argues that the present invention operates in conflicting manners. In the first paragraph applicant argues that the vehicle is braked as a function of velocity after the grips are released. Later in the arguments the applicant argues that the vehicle of the present invention is braked as a function of time delay between release of the gripping handle and operation of the brake. It is not clear as to how the invention operates. Does it operate as a function of time delay or as a function of movement or velocity? With regards to the arguments about the Yoshiko

reference, it appears that the arguments are more specific than what is required by the limitations set by the claims.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JAMES K. HSIAO** whose telephone number is (571)272-6259. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKH

/Robert A. Siconolfi/
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